



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2013 REGULAR SESSION

SENATE BILL NO. 27

AS ENACTED

MONDAY, MARCH 11, 2013

RECEIVED AND FILED

DATE March 22, 2013
3:15pm

ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

1 AN ACT relating to legal actions related to property.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔Section 1. KRS 426.220 is amended to read as follows:

4 (1) If land sold under execution does not bring two-thirds of its appraised value, the
5 defendant and his representatives may redeem it within six months~~[a-year]~~ from the
6 day of sale, by paying the purchaser or his representative the original purchase
7 money and ten percent per annum interest thereon. The defendant redeeming his
8 land shall take a receipt from the purchaser and lodge it with the clerk of the court,
9 which receipt shall be filed and recorded with the execution under which the sale
10 was made.

11 (2) The defendant may tender the redemption money to the purchaser or his agent or
12 attorney, if in the county where the land lies or in the county where the judgment
13 was obtained, and if the money is refused or if the purchaser does not reside in
14 either of the counties, the defendant may, before the expiration of six months~~[the~~
15 ~~year]~~, go to the clerk of the court where the execution issued and make affidavit of
16 the tender and refusal or that the purchaser or his agent or attorney does not reside
17 in the county where the land lies or where the execution issued, as he believes. He
18 may then pay to the clerk the redemption money for the purchaser, and the clerk
19 shall give a receipt therefor and file the affidavit with the execution in his office.

20 (3) When the right of redemption exists, the defendant may remain in possession until
21 the right of redemption expires.

22 ➔Section 2. KRS 426.230 is amended to read as follows:

23 Land sold under execution which is subject to redemption shall not be conveyed by the
24 officer making the sale until the expiration of six months~~[one-year]~~ from the sale, nor
25 shall he convey after that period if the land has been redeemed or an affidavit made and
26 the money deposited with the clerk as provided in KRS 426.220, unless by court order or
27 with the written assent of the defendant in the execution.

1 ➔Section 3. KRS 426.240 is amended to read as follows:

2 The right of redemption may be sold under execution. The land shall still be subject to
 3 redemption by the defendant, from both purchasers, for six months~~[one year]~~ from the
 4 first sale. The purchaser of the right of redemption may, before the end of six months~~[a~~
 5 ~~year]~~ from the first sale, pay the prior purchaser his money and interest as provided in
 6 KRS 426.220, and be entitled to the land, subject to the rights of possession and
 7 redemption held by the defendant in the execution.

8 ➔Section 4. KRS 134.452 is amended to read as follows:

9 (1) Notwithstanding any other provisions of this chapter, a third-party purchaser of a
 10 certificate of delinquency shall be entitled to collect only the following prelitigation
 11 fees:

- 12 (a) The amount actually paid for the certificate of delinquency;
- 13 (b) Interest as provided in KRS 134.125, calculated on the amount actually paid
 14 to the county clerk from the date the certificate of delinquency was purchased
 15 until paid; and
- 16 (c) 1. Prelitigation attorneys' fees, which may include amounts incurred for
 17 collection efforts and costs related to notification, processing, research,
 18 communication, compliance, legal costs, documentation, and similar
 19 expenses, from the date the third-party purchaser purchases the
 20 certificate of delinquency from the county clerk, to the date on which the
 21 notice required by KRS 134.490(2) is mailed by the third-party
 22 purchaser. The amount that may be collected by the third-party
 23 purchaser as prelitigation attorneys' fees shall be subject to the following
 24 limitations:
 - 25 2. a. If the amount paid for a certificate of delinquency is between five
 26 dollars (\$5) and three hundred fifty dollars (\$350), actual
 27 reasonable fees incurred up to one hundred percent (100%) of the

1 amount of the certificate of delinquency, not to exceed three
2 hundred fifty dollars (\$350);

3 b. If the amount paid for a certificate of delinquency is between three
4 hundred fifty-one dollars (\$351) and seven hundred dollars (\$700),
5 actual reasonable fees incurred up to eighty percent (80%) of the
6 amount of the certificate of delinquency, not to exceed five
7 hundred sixty dollars (\$560); and

8 c. If the amount paid for a certificate of delinquency is above seven
9 hundred one dollars (\$701), actual reasonable fees incurred up to
10 seventy percent (70%) of the amount of the certificate of
11 delinquency, not to exceed seven hundred dollars (\$700).

12 d. If a third-party purchaser is the owner of more than one (1)
13 certificate of delinquency against the same taxpayer, actual and
14 reasonable prelitigation attorneys' fees for all certificates of
15 delinquency against the same taxpayer shall not exceed one and
16 one-half (1.5) times the maximum amount permitted in paragraph
17 (a) of this subsection for the largest tax bill owed by the taxpayer;
18 and

19 3. The amounts allowed by subparagraph 2. of this paragraph shall not
20 accrue to the account of the delinquent taxpayer, nor be charged by the
21 third-party purchaser against the delinquent taxpayer all at one (1) time
22 unless the amount of certificate of delinquency is one hundred seventy-
23 five dollars (\$175) or less. The third-party purchaser may accrue to the
24 account of the delinquent taxpayer, and charge the delinquent taxpayer
25 an amount equal to the lesser of prelitigation attorney's fees incurred by
26 the third-party purchaser since the prior notice was sent or one hundred
27 seventy-five dollars (\$175), for each notice sent to the delinquent

1 taxpayer, provided that:

2 a. The total aggregate amount of prelitigation attorneys' fees that may
3 accrue to the account of the delinquent taxpayer and be charged by
4 the third-party purchaser against the delinquent taxpayer shall not
5 exceed the limitations established by paragraph (a) of this
6 subsection; and

7 b. Additional fees shall not accrue to the account of the delinquent
8 taxpayer or be charged by the third-party purchaser against the
9 delinquent taxpayer more frequently than every ninety (90) days,
10 regardless of how many notices the third-party purchaser may
11 send.

12 (2) If the delinquent taxpayer and the third-party purchaser enter into a payment
13 agreement, the third-party purchaser may collect the installment payment processing
14 fee authorized by KRS 134.490(5).

15 (3) (a) In addition to the fees established by subsections (1), (2), and (4) of this
16 section, a third-party purchaser may collect actual, reasonable attorneys' fees
17 and costs that arise due to the prosecution of collection remedies or the
18 protection of a certificate of delinquency that is involved in litigation. Fees
19 and costs permitted under this subsection include fees and costs incurred from
20 the first day after the notice required by KRS 134.490(2) is sent through the
21 day any litigation is finally concluded.

22 (b) For purposes of this subsection:

23 1. Actual attorneys' litigation fees up to two thousand dollars (\$2,000)
24 may be reasonable if the fees are based upon documented work
25 performed at a rate commensurate with hourly rates customarily
26 charged by private attorneys in that jurisdiction for similar services. A
27 flat rate, without hours documented for work performed, may be

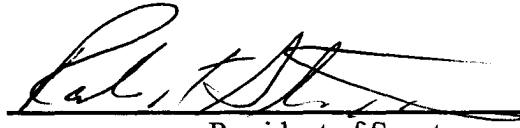
reasonable if the flat fee is determined to be discounted from the usual and customary rates for comparable work; and

2. Any attorneys' litigation fee in excess of two thousand dollars (\$2,000) shall be allowed if authorized by the court upon a finding that the third-party purchaser incurred actual attorneys' litigation fees in excess of two thousand dollars (\$2,000) and that those attorneys' litigation fees were warranted based upon the complexity of the issues presented in the litigation.

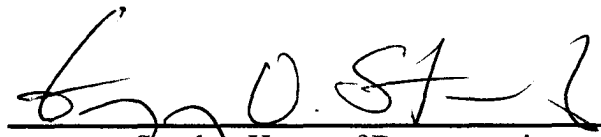
(4) The third-party purchaser may collect administrative fees incurred for preparing, recording, and releasing an assignment of the certificate of delinquency in the county clerk's office, not to exceed one hundred fifteen dollars (\$115).

(5) The General Assembly recognizes that third-party purchasers play an important role in the delinquent tax collection system, allowing taxing districts to receive needed funds on a timely basis. The General Assembly has carefully considered the fees and charges authorized by this section, and has determined that the amounts established are reasonable based on the costs of collection and fees and charges incurred in litigation.

(6) A certificate of delinquency owned by a third-party purchaser shall be deemed a general intangible for the purposes of Article 9 of KRS Chapter 355.



President of Senate



Speaker - House of Representatives

Attest: 

Chief Clerk of Senate

Approved 

Governor

Date 3-22-13